

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WISCONSIN

WILLIAM WHITFORD, et al.

Plaintiffs,

v.

Case No. 3:15-CV-00421-jdp

BEVERLY R. GILL, et al.,

Defendants,

and

THE WISCONSIN STATE ASSEMBLY,

Intervenor-Defendant.

**THE WISCONSIN ELECTIONS COMMISSION DEFENDANTS AND
THE WISCONSIN STATE ASSEMBLY'S MOTION TO DISMISS
PLAINTIFFS' AMENDED COMPLAINT WITH PREJUDICE**

Subject only to the potential for allocation of costs and the award of fees, this case is over. In the words of the Supreme Court, “partisan gerrymandering claims,” whether couched as Equal Protection claims or First Amendment claims, “present political questions beyond the reach of the federal courts. Federal judges have no license to reallocate political power between the two major political parties, with no plausible grant of authority in the Constitution, and no legal standards to limit and direct their decisions.” *Rucho v. Common Cause*, No. 18-422, slip op. at 30 (U.S. June 27, 2019); *see also id.* at 34 (vacating and remanding “with instructions to dismiss for lack of jurisdiction”).

The Wisconsin Elections Commission Defendants and the Wisconsin State Assembly oppose Plaintiffs' request that this Court order a dismissal without prejudice and that each party bear its own costs and fees in this case. *See* Pls.' Mot. to Dismiss at 1 & n.1, ECF 316. Defendants will be seeking fees and/or costs and request a briefing schedule about the availability of the same.

In light of the Supreme Court's decision in *Rucho* and *Lamone*, the Wisconsin Elections Commission Defendants and the Wisconsin State Assembly respectfully request that this Court dismiss Plaintiffs' amended complaint with prejudice.

June 28, 2019

Respectfully submitted,

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